THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4003 of 2005

20.7.2007

Between:

Peethala Padmanabham
And others

… Petitioners

AND

The District Collector, Visakhapatnam
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4003 of 2005

ORDER:

The petitioners assail the proceedings dated 22.2.2005 issued by the Mandal Revenue Officer (MRO), Visakhapatnam Rural – third respondent herein; in Rc.No.349/2002/A, whereby and whereunder in purported exercise of powers under Section 4 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity), third respondent directed the Mandal Surveyor to take possession of the land admeasuring Acs.8.44 in survey Nos.38/1 to 38/8 situated at Rushikonda village in Visakhapatnam District (subject land), and keep it in proper custody. It is the case of the petitioners that they were assigned the subject land, that they developed the land and planted cashew nut and other fruit bearing trees. When there was threat of dispossession, they filed W.P.No.19682 of 1998 and the same was disposed of by this Court on 13.7.1998 directing the respondents to dispose of the application made by the petitioners dated 20.1.1997, after giving notice to them while maintaining *status quo* as to possession. In pursuance thereof, third respondent then issued a notice on 01.6.2002. The petitioners submitted explanation on 12.6.2002. Without considering the same, it is alleged, third respondent passed the impugned order on 22.2.2005. It is alleges that even without allowing time to avail the remedy of appeal, respondents came to the site with proclainers for destructing the garden. Aggrieved by the same, the present writ petition is filed.

This Court while admitting the writ petition, on 15.3.2005, granted interim order to the effect that the nature of the land shall not be altered. The District Collector, the Revenue Divisional Officer (RDO) and the MRO moved WVMP No.1302 of 2005 for vacating the interim order. It is stated that the first petitioner was assigned land

admeasuring Acs.1.18 in survey No.38/1, second petitioner was assigned land admeasuring Acs.2.05 in survey No.38/2, the third petitioner was assigned land admeasuring Acs.2.74 in survey Nos.38/4, 38/6 and 38/8 and that they did not bring the land under cultivation. Therefore, a show cause notice was issued to the petitioners. In the enquiry, it is noticed that the petitioners sold away the land to third parties and fourth petitioner purchased land admeasuring Acs.2.71 in survey Nos.34/7, 38/3, 38/5 and 38/7 from another assignee Ommi Sanyasi. The petitioners violated the conditions in BSO 15(12) as well as the provisions of the Act. The impugned order is passed after giving notice to the petitioners and after disposal of the earlier writ petition filed by the petitioners.

Learned Counsel for the petitioners submits that against the order of the MRO dated 22.2.2005, which is impugned in this writ petition, petitioners already filed appeal before the RDO on 10.3.2005. In view of the same, it would not be proper for this Court to express any opinion on the merits of the case or the other legal contentions raised by the learned Counsel for the petitioners. There is a dispute regarding possession of the land. When the matter was initially heard on 01.3.2005, learned Government Pleader for Revenue submitted that the land was resumed and handed over to Tourism Department. In paragraph 9 of the counter affidavit, it is averred that even before filing of the writ petition, the land is in possession of the Government. Therefore, this Court is of considered opinion that the order passed by this Court on 15.3.2005 to the effect that the nature of the land shall not be altered, shall continue till the matter is disposed of. The RDO may dispose of the appeal filed by the petitioners within a period of eight weeks from the date of receipt of a copy of this order. The observations made herein above would hold good with regard to the nature of the land or its possession thereof.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

_____

(**V.V.S.RAO,J**)

July 20, 2007.
YS